



General Assembly

January Session, 2005

Raised Bill No. 1207

LCO No. 3812

03812_____PH_

Referred to Committee on Public Health

Introduced by:
(PH)

***AN ACT CONCERNING THE CAPITAL EXPENDITURE THRESHOLD
FOR THE REGULATION OF EQUIPMENT ACQUISITIONS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (4) of subsection (a) of section 19a-638 of the
2 general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective October 1, 2005*):

4 (4) [Each] Except as provided in sections 19a-639a to 19a-639c,
5 inclusive, as amended by this act, each applicant, prior to submitting a
6 certificate of need application under this section, section 19a-639, as
7 amended by this act, or under both sections, shall submit a request, in
8 writing, for application forms and instructions to the office. The
9 request shall be known as a letter of intent. A letter of intent shall
10 include: (A) The name of the applicant or applicants; (B) a statement
11 indicating whether the application is for (i) a new, replacement or
12 additional facility, service or function, (ii) the expansion or relocation
13 of an existing facility, service or function, (iii) a change in ownership or
14 control, (iv) a termination of a service or a reduction in total bed
15 capacity and the bed type, (v) any new or additional beds and their
16 type, (vi) a capital expenditure over one million dollars, (vii) the

17 acquisition of major medical equipment, [imaging equipment or a
18 linear accelerator costing over four hundred thousand dollars] (viii) a
19 CT scanner, PET scanner, PET/CT scanner, MRI scanner,
20 cineangiography equipment, a linear accelerator or equipment with
21 technology that is new or being introduced into the state, or (ix) any
22 combination thereof; (C) the estimated capital cost, value or
23 expenditure; (D) the town where the project is or will be located; and
24 (E) a brief description of the proposed project. The office shall provide
25 public notice of any complete letter of intent submitted under this
26 section, section 19a-639, as amended by this act, or both, by publication
27 in a newspaper having a substantial circulation in the area served or to
28 be served by the applicant. Such notice shall be submitted for
29 publication not later than fifteen business days after a determination
30 that a letter of intent is complete. No certificate of need application will
31 be considered submitted to the office unless a current letter of intent,
32 specific to the proposal and in compliance with this subsection, has
33 been on file with the office at least sixty days. A current letter of intent
34 is a letter of intent [which] that has been on file at the office up to and
35 including one hundred twenty days, except that an applicant may
36 request a one-time extension of a letter of intent of up to an additional
37 thirty days for a maximum total of up to one hundred fifty days if,
38 prior to the expiration of the current letter of intent, the office receives
39 a written request to so extend the letter of intent's current status. The
40 extension request shall fully explain why an extension is requested.
41 The office shall accept or reject the extension request [within] not later
42 than five business days from the date it receives such request and shall
43 so notify the applicant.

44 Sec. 2. Subsection (a) of section 19a-639 of the general statutes is
45 repealed and the following is substituted in lieu thereof (*Effective*
46 *October 1, 2005*):

47 (a) Except as provided in sections 19a-639a to 19a-639c, inclusive, as
48 amended by this act, each health care facility or institution, including,
49 but not limited to, any inpatient rehabilitation facility, any health care

50 facility or institution or any state health care facility or institution
 51 proposing (1) a capital expenditure exceeding one million dollars, [or]
 52 (2) the acquisition of major medical equipment requiring a capital
 53 expenditure, as defined in regulations adopted pursuant to section
 54 19a-643, in excess of four hundred thousand dollars, or (3) a CT
 55 scanner, PET scanner, PET/CT scanner, MRI scanner, cineangiography
 56 equipment, a linear accelerator or equipment with technology that is
 57 new or being introduced into this state, including the [leasing]
 58 purchase, lease or donation of equipment or a facility, shall submit a
 59 request for approval of such expenditure to the office, with such data,
 60 information and plans as the office requires in advance of the
 61 proposed initiation date of such project.

62 Sec. 3. Subdivision (3) of subsection (b) of section 19a-639 of the
 63 general statutes is repealed and the following is substituted in lieu
 64 thereof (*Effective October 1, 2005*):

65 (3) The office shall comply with the public notice provisions of
 66 subdivision (4) of subsection (a) of section 19a-638, as amended by this
 67 act, and shall hold a public hearing with respect to any complete
 68 certificate of need application filed under this section, if: (A) The
 69 proposal has associated total capital expenditures or total capital costs
 70 that exceed twenty million dollars for land, building or nonclinical
 71 equipment acquisition, new building construction or building
 72 renovation; [or] (B) the proposal has associated total capital
 73 expenditures per unit or total capital costs per unit that exceed [one
 74 million] four hundred thousand dollars for the purchase or lease of
 75 major medical equipment; [, imaging equipment or] (C) the proposal is
 76 for the purchase or lease of scanning equipment, cineangiography
 77 equipment, a linear accelerator [,] or equipment utilizing technology
 78 that is new or being introduced into the state; or [(C)] (D) three
 79 individuals or an individual representing an entity comprised of five
 80 or more people submit a request, in writing, that a public hearing be
 81 held on the proposal. At least two weeks' notice of such public hearing
 82 shall be given to the applicant, in writing, and to the public by

83 publication in a newspaper having a substantial circulation in the area
84 served by the applicant. At the discretion of the office, such hearing
85 shall be held in Hartford or in the area so served or to be served.

86 Sec. 4. Subsection (c) of section 19a-639 of the general statutes is
87 repealed and the following is substituted in lieu thereof (*Effective*
88 *October 1, 2005*):

89 (c) [Notwithstanding section 19a-639a or 19a-639b, each] Each
90 person or [facility] provider, other than a health care or state health
91 care facility or institution subject to subsection (a) of this section,
92 proposing to [acquire] purchase, lease or replace [imaging equipment
93 or a linear accelerator requiring a capital expenditure, as defined in
94 regulations adopted pursuant to section 19a-643, in excess of four
95 hundred thousand dollars] (1) major medical equipment with a capital
96 expenditure in excess of four hundred thousand dollars, or (2) a CT
97 scanner, PET scanner, PET/CT scanner, MRI scanner, cineangiography
98 equipment, linear accelerator or equipment with technology that is
99 new or being introduced into the state, including the [leasing or]
100 donation of such equipment, [and facility and including all capital
101 expenditures, as defined in regulations adopted pursuant to said
102 section, associated with the provision of the imaging service or
103 operation of a linear accelerator,] shall submit a request for approval of
104 any such [imaging equipment or linear accelerator acquisition]
105 equipment purchase or lease pursuant to the provisions of subsection
106 (a) of this section. In determining the capital cost or expenditure for an
107 application under this section or section 19a-638, as amended by this
108 act, the office shall use the greater of [(1)] (A) the fair market value of
109 the equipment as if it were to be used for full-time operation, whether
110 or not the equipment is to be used, shared or rented on a part-time
111 basis, or [(2)] (B) the total value or estimated value determined by the
112 office of any capitalized lease computed for a three-year period. Each
113 method shall include the costs of any service or financing agreements
114 plus any other cost components or items the office specifies in
115 regulations, adopted in accordance with chapter 54, or deems

116 appropriate.

117 Sec. 5. Section 19a-639a of the general statutes is repealed and the
118 following is substituted in lieu thereof (*Effective October 1, 2005*):

119 (a) Except as provided in subsection (c) of section 19a-639, as
120 amended by this act, or as required in subsection (b) of this section, the
121 provisions of section 19a-638, as amended by this act, and subsection
122 (a) of section 19a-639, as amended by this act, shall not apply to: (1) An
123 outpatient clinic or program operated exclusively by, or contracted to
124 be operated exclusively for, a municipality or municipal agency, a
125 health district, as defined in section 19a-240, or a board of education;
126 (2) a residential facility for the mentally retarded licensed pursuant to
127 section 17a-227 and certified to participate in the Title XIX Medicaid
128 program as an intermediate care facility for the mentally retarded; (3)
129 an outpatient rehabilitation service agency that was in operation on
130 January 1, 1998, that is operated exclusively on an outpatient basis and
131 that is eligible to receive reimbursement under section 17b-243; (4) a
132 clinical laboratory; (5) an assisted living services agency; (6) an
133 outpatient service offering chronic dialysis; (7) a program of
134 ambulatory services established and conducted by a health
135 maintenance organization; (8) a home health agency; (9) a clinic
136 operated by the Americares Foundation; (10) a nursing home; or (11) a
137 rest home. [However, the] The exemptions provided in this section
138 shall not apply when a nursing home or rest home is, or will be
139 created, acquired, operated or in any other way related to or affiliated
140 with, or under the complete or partial ownership or control of a facility
141 or institution or affiliate subject to the provisions of section 19a-638, as
142 amended by this act, or subsection (a) of section 19a-639, as amended
143 by this act.

144 (b) Each health care facility or institution exempted under this
145 section shall register with the office by filing the information required
146 by subdivision (4) of subsection (a) of section 19a-638, as amended by
147 this act, for a letter of intent at least ten business days but not more

148 than sixty calendar days prior to commencing operations and prior to
 149 changing, expanding, terminating or relocating any facility or service
 150 otherwise covered by section 19a-638, as amended by this act, or
 151 subsection (a) of section 19a-639, as amended by this act, or covered by
 152 both sections or subsections, except that, if the facility or institution is
 153 in operation on June 5, 1998, said information shall be filed not more
 154 than sixty days after said date. Not later than ten business days after
 155 the office receives a completed filing required under this subsection,
 156 the office shall provide the health care facility or institution with
 157 written acknowledgment of receipt. Such acknowledgment shall
 158 constitute permission to operate or change, expand, terminate or
 159 relocate such a facility or institution or to make an expenditure
 160 consistent with an authorization received under subsection (a) of
 161 section 19a-639, as amended by this act, until the next September
 162 thirtieth. Each entity exempted under this section shall renew its
 163 exemption annually by filing current information each September.

164 (c) Each health care facility or institution that proposes to purchase
 165 or lease a CT scanner, PET scanner, PET/CT scanner, MRI scanner,
 166 cineangiography equipment or a linear accelerator shall be exempt
 167 from certificate of need review pursuant to sections 19a-638 and 19a-
 168 639, as amended by this act, if such facility or institution (1) provides
 169 to the office satisfactory evidence that it purchased or leased such
 170 equipment on or before July 1, 2005, and such equipment was in
 171 operation on or before said date, or (2) obtained, on or before July 1,
 172 2005, from the office, a determination that a certificate of need was not
 173 required for the purchase or lease of such equipment.

174 Sec. 6. Section 19a-639c of the general statutes is repealed and the
 175 following is substituted in lieu thereof (*Effective October 1, 2005*):

176 Notwithstanding the provisions of section 19a-638, as amended by
 177 this act, or section 19a-639, as amended by this act, the office may
 178 waive the requirements of those sections and grant a certificate of need
 179 to any health care facility [,] or institution or provider or any state

180 health care facility [,] or institution or provider proposing to replace
 181 major medical equipment, [imaging equipment] a CT scanner, PET
 182 scanner, PET/CT scanner, MRI scanner, cineangiography equipment
 183 or a linear accelerator if:

184 (1) The health care facility [,] or institution or provider has
 185 previously obtained a certificate of need for the equipment [or
 186 accelerator being] to be replaced;

187 (2) The replacement value or expenditure for the replacement
 188 equipment [or accelerator] is not more than the original cost plus an
 189 increase of ten per cent for each twelve-month period that has elapsed
 190 since the date of the original certificate of need; and

191 (3) The replacement value or expenditure is less than two million
 192 dollars.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2005	19a-638(a)(4)
Sec. 2	October 1, 2005	19a-639(a)
Sec. 3	October 1, 2005	19a-639(b)(3)
Sec. 4	October 1, 2005	19a-639(c)
Sec. 5	October 1, 2005	19a-639a
Sec. 6	October 1, 2005	19a-639c

Statement of Purpose:

To eliminate the four hundred thousand dollar capital expenditure threshold that triggers certificate of need review of proposals involving the purchase or lease of various types of scanning equipment, cineangiography equipment or linear accelerators purchased after July 1, 2005.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]